



In the Supreme Court of Iowa

**Adoption of Expedited)
Civil Action Rule and) Order
Amendments to Iowa)
Discovery Rules)**

Having received and reviewed public comments, and made changes to the versions that were circulated for public comment, the Iowa Supreme Court today approves new Iowa Court Rule 1.281, governing expedited civil actions, and new rule 1.500, and amendments to rules 1.413, 1.501, 1.503, 1.504, 1.505, 1.507, 1.508, 1.509, 1.512, 1.517, 1.701, 1.708, and 1.906, governing discovery and pretrial procedures. Complete texts of the new expedited civil action rule (ECA rule) and the other new and amended rules (collectively referred to as “the discovery amendments”) are provided with this order. These texts include a number of explanatory comments. These rules are approved pursuant to the court’s supervisory and administrative authority under Iowa Code section 602.1201 (2013). Approval is subject to the provisions of Iowa Code section 602.4202.

The ECA rule and the discovery amendments adopted today are an outgrowth of the work of the Iowa Civil Justice Reform Task Force. That task force, which had 84 members, produced a report in early 2012 that recommended changes to discovery processes as well as consideration of a separate track for civil cases falling below a threshold dollar value.

In the fall of 2012, seeking to put those recommendations into effect, the supreme court appointed a fourteen-person Advisory Committee Concerning Certain Civil Justice Reform Task Force Recommendations. The committee was specifically charged with proposing potential amendments to the Iowa Rules of Civil Procedure to implement a two-tier,

or dual-track, civil justice system and to streamline discovery processes. In the summer of 2013, the committee reported to the supreme court, recommending changes to the existing discovery rules as well as a new rule authorizing streamlined and expedited case procedures for actions involving \$75,000 or less in money damages. After further examination and revision, these proposals were circulated for public comment on November 1, 2013.

The public comment period lasted from November 1, 2013, until March 17, 2014. The court received valuable comments from a number of sources. Both the committee and the court have carefully reviewed the comments.

Based upon the comments, the court has made some changes to the ECA rule and the discovery amendments. In general, however, the essential features from the November 1, 2013, public comment versions have been retained. For the ECA rule, these include the \$75,000 limit on recovery for or against a party (unless the parties stipulate to proceeding under the ECA rule), the ability of plaintiffs to opt in unilaterally, the limits on discovery and summary judgment motions, the expedited trial, the time limit on each side's trial presentation, and certain modifications of the hearsay rule.

The court believes the provisions of the ECA rule will significantly reduce litigation time and cost, while increasing access to justice. Yet the ECA rule is also designed to preserve the traditional jury trial and parties' rights of appeal. Of course, the court intends to closely monitor how the ECA rule operates and will consider future amendments if needed. The state court administrator has appointed a committee, chaired by Chief Judge Marlita Greve of the Seventh Judicial District, and including a

number of district court administrators and court clerks, to assist in implementation of the ECA rule.

With respect to the discovery amendments, the court has made some changes in response to the comments but again has decided to retain most of the provisions that were circulated for public comment last fall. Thus, initial disclosures will be presumptively required in most civil cases, although the parties may stipulate out of the initial disclosure requirement. On balance, the court believes that having the parties exchange basic information that is typically provided later in discovery anyway will lead to more cost-effective and efficient litigation. The discovery amendments also include an expert report requirement (replacing the existing expert interrogatory answers) and various other updates to Iowa's discovery rules, some of which are intended to curb potential abuse of discovery practices. A number of these amendments have their genesis in the 2012 Iowa Civil Justice Reform Task Force report.

Additionally, pursuant to its supervisory and administrative authority, and subject again to the provisions of Iowa Code section 602.4202, the court today approves certain new forms and amends certain existing forms in order to implement the new ECA rule and the discovery amendments. These forms are:

- New rule 1.1901—Forms 16 and 17 to be used when a plaintiff wishes to proceed under the ECA rule.
- New rule 1.1901—Form 18 to be used when the parties wish to jointly move for a case to proceed under the ECA rule.
- New rule 1.1901—Form 19: Health Care Provider Statement in Lieu of Testimony, authorized by the ECA rule.

- Amended rule 23.5—Form 1: Notice of Civil Trial-Setting Conference.
- Amended rule 23.5—Form 2: Trial Scheduling Order and Discovery Plan, to be used in standard track (non-ECA) cases.
- New rule 23.5—Form 3: Trial Scheduling Order and Discovery Plan for Expedited Civil Action.

Finally, the court amends court rules 23.2(1) and 23.2(2) regarding time standards for ECA cases. In rule 23.2(1)(c), court administration will schedule ECA cases to commence trials within 12 months of filing. In rule 23.2(2)(c), the court, for good cause shown, may order an extension of time for commencing an ECA case within 15 months of filing.

The new rules, amended rules, new forms, and amended forms referenced above are provided with this order.

Subject to the provisions of Iowa Code section 602.4202, the ECA rule, the discovery amendments and the aforementioned forms will take effect January 1, 2015. All actions filed on or after January 1, 2015, will be subject to the new rules and forms.

In addition, the discovery amendments will apply to all previously-commenced cases *pending* on or after January 1, 2015, except for Iowa Rule of Civil Procedure 1.500 (required disclosures), rule 1.505(1) (timing of discovery), rule 1.507 (discovery conference), rule 1.508 (expert discovery), and rule 1.906 (civil trial setting conference), provided further that the district court may in any case direct the parties to comply with all or part of those rules as part of a pretrial order. Furthermore, the district court may, upon stipulation of the parties, direct that an action commenced prior to January 1, 2015, proceed as an expedited civil action.

Dated this 28th day of August, 2014.

The Supreme Court of Iowa

By Mark S. Cady
Mark S. Cady, Chief Justice